

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THE ESTATE OF JAMES D.	:	
GALLOWAY, Deceased, by and through:	:	Civil Action No. 05-0050 Erie
EDMOND C. GALLOWAY, Successor	:	
Trustee of the JAMES D. GALLOWAY	:	Judge Sean J. McLaughlin
Revocable Living Trust,	:	
Plaintiff	:	
	:	
v.	:	
	:	
THE UNITED STATES OF AMERICA,	:	
Defendant	:	

UNOPPOSED MOTION AMEND COMPLAINT

The plaintiff, the Estate of James D. Galloway, Deceased, by and through Edmond C. Galloway, Successor Trustee of the James D. Galloway Revocable Living Trust, by and through undersigned counsel, move this Court for an order permitting the Amendment of the Complaint in this case to conform with the substitution of Edmond C. Galloway, Successor Trustee of the James D. Galloway Revocable Living Trust as Plaintiff in this matter. In support of this motion, the movant avers as follows:

1. The original complaint identifies the plaintiff as above captioned.
2. The appropriate plaintiff is Edmond C. Galloway, Successor Trustee of the James D. Galloway Revocable Living Trust.
3. Under applicable law, an estate cannot be a plaintiff in an action. In re Harrisburg Trust Co., 80 Pa. Super 585 (1923).
4. The Plaintiff previously filed a Motion to substitute Edmond C. Galloway, Successor Trustee of the James D. Galloway Revocable Living Trust as Plaintiff in this matter, which Motion was unopposed.

5. It is necessary to amend the original complaint in order to effectuate the requested, unopposed, substitution.

6. The plaintiff has submitted, as Exhibit A, a First Amended Complaint reflecting the corrected caption and factual allegations at paragraph 4 necessary to establish Edmond C. Galloway's standing as Successor Trustee.

7. By agreement of the parties, Edmond C. Galloway in his capacity as substituted plaintiff shall be deemed to have the same affect as if he had originally commenced the above captioned action.

8. The parties cooperate in this unopposed motion. Defendant does not oppose this motion and the relief sought herein.

9. The Court is authorized to grant this motion under FRCP Rules 15.

Respectfully submitted,

QUINN, BUSECK, LEEMHUIS, TOOHEY
& KROTO, INC.

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The relief sought by this motion is unopposed.

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